

Senate Bill No. 512

CHAPTER 53

An act to amend Sections 44221, 44225.6, 44251, 44259, 44263, 44332.5, 44421, 44422, 44426, 44830.7, 44853, 44856, 44917, 44980, 44987.3, 52127, 52163, and 52165 of the Education Code, relating to teacher credentialing.

[Approved by Governor August 5, 2009. Filed with
Secretary of State August 6, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 512, Committee on Education. Education.

Existing law establishes the Commission on Teacher Credentialing to issue teaching and services credentials, and to establish standards for the issuance and renewal of credentials, certificates, and permits.

This bill would update references to the commission. The bill would also update cross-references, delete obsolete provisions, and would make other technical, nonsubstantive changes.

The people of the State of California do enact as follows:

SECTION 1. Section 44221 of the Education Code is amended to read:
44221. The commission may employ personnel as necessary to carry out its duties and responsibilities. The staff of the commission shall be subject to the provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code.

All persons, other than temporary employees, serving in the state civil service and engaged in the performance of a function transferred to the Commission on Teacher Credentialing or engaged in the administration of a law, the administration of which is transferred to the commission, shall remain in the state civil service and may request transfer to the commission or remain with the department on the effective date of this section. The status, position, and rights of any person shall not be affected by his or her transfer and shall continue to be retained pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position that is exempt from civil service.

SEC. 2. Section 44225.6 of the Education Code is amended to read:

44225.6. (a) By April 15 of each year, the commission shall report to the Legislature and the Governor on the availability of teachers in California. This report shall include the following information:

(1) The number of individuals recommended for credentials by institutions of higher education and each type of credential, certificate, or authorization for which they were recommended, including authorizations issued pursuant to Sections 44253.3 and 44253.4.

(2) The number of individuals recommended by school districts operating district internship programs and each type of credential, certificate, or authorization for which they were recommended, including authorizations issued pursuant to Sections 44253.3 and 44253.4.

(3) The number of individuals receiving an initial credential based on a program completed outside of California and each type of credential, certificate, or authorization for which they were recommended, including authorizations issued pursuant to Sections 44253.3 and 44253.4.

(4) The number of individuals receiving an emergency permit, credential waiver, or other authorization that does not meet the definition of a highly qualified teacher under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(5) The number of individuals receiving the certificate of completion of staff development in methods of specially designed content instruction delivered in English pursuant to subdivision (d) of Section 44253.10 and, separately, pursuant to paragraph (1) of subdivision (e) of Section 44253.11.

(6) Statewide, by county, and by school district, the number of individuals serving in the following capacities and as a percentage of the total number of individuals serving as teachers statewide, in the county, and in the school district:

(A) University internship.

(B) District internship.

(C) Preinternship.

(D) Emergency permit.

(E) Credential waiver.

(F) Preliminary or clear credential.

(G) An authorization, other than those listed in this paragraph, that does not meet the definition of a highly qualified teacher under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) by category of authorization.

(H) An authorization issued pursuant to Section 44253.3.

(I) Certificates or authorizations issued pursuant to Section 44253.3, 44253.4, 44253.10, or 44253.11, if available.

(J) The number of individuals serving English learner pupils in settings calling for English language development, in settings calling for specially designed academic instruction in English, or in primary language instruction, without the appropriate authorization under Section 44253.3, 44253.4, 44253.10, or 44253.11, or under another statute, if available. The commission may utilize data from the department's Annual Language Census Survey to report the data required pursuant to this paragraph.

(7) The specific subjects and teaching areas in which there are a sufficient number of new holders of credentials to fill the positions currently held by individuals with emergency permits.

(b) The commission shall make this report available to school districts and county offices of education to assist them in the recruitment of credentialed teachers and shall make the report and supporting data publicly available on the commission's Web site.

(c) A common measure of whether teacher preparation programs are meeting the challenge of preparing increasing numbers of new teachers is the number of teaching credentials awarded. The number of teaching credentials recommended by these programs and awarded by the commission are indicators of the productivity of teacher preparation programs. The commission shall include in the report prepared for the Legislature and Governor pursuant to subdivision (a) the total number of teaching credentials recommended by all accredited teacher preparation programs authorized by the commission and the number recommended by each of the following:

- (1) The University of California system.
- (2) The California State University system.
- (3) Independent colleges and universities that offer teacher preparation programs approved by the commission.
- (4) Other institutions that offer teacher preparation programs approved by the commission.

(d) For purposes of this section, "authorization" has the same meaning as defined in subdivision (d) of Section 44203.

SEC. 3. Section 44251 of the Education Code is amended to read:

44251. (a) The period for which a credential, as authorized under Section 44250 issued prior to September 1, 1985, is valid shall be as follows:

- (1) For an internship credential: two years.
- (2) For a preliminary credential, pending completion of the clear credential program: five years.
- (3) For a life credential: the life of the holder.

(b) The period for which a credential issued on or after September 1, 1985, as authorized under Section 44250 is valid, shall be as follows:

- (1) For an internship credential: two years.
- (2) For a preliminary credential, pending completion of a beginning teacher induction program approved by the commission or the clear credential program: five years.
- (3) For a clear teaching credential: the life of the holder, if the holder submits an application and fee for renewal every five years and meets all professional fitness requirements under Sections 44339, 44340, and 44341.

(4) For a clear services credential: the life of the holder, if the holder submits an application and fee for renewal every five years and meets all professional fitness requirements under Sections 44339, 44340, and 44341.

SEC. 4. Section 44259 of the Education Code is amended to read:

44259. (a) Except as provided in subparagraphs (A) and (C) of paragraph (3) of subdivision (b), each program of professional preparation for multiple or single subject teaching credentials shall not include more than one year of, or the equivalent of one-fifth of a five-year program in, professional preparation.

(b) The minimum requirements for the preliminary multiple or single subject teaching credential are all of the following:

(1) A baccalaureate degree or higher degree from a regionally accredited institution of postsecondary education. Except as provided in subdivision (c) of Section 44227, the baccalaureate degree shall not be in professional education. The commission shall encourage accredited institutions to offer undergraduate minors in education and special education to students who intend to become teachers.

(2) Passage of the state basic skills examination that is developed and administered by the commission pursuant to Section 44252.5.

(3) Satisfactory completion of a program of professional preparation that has been accredited by the committee on accreditation on the basis of standards of program quality and effectiveness that have been adopted by the commission. In accordance with the commission's assessment and performance standards, each program shall include a teaching performance assessment as set forth in Section 44320.2 which is aligned with the California Standards for the Teaching Profession. The commission shall ensure that each candidate recommended for a credential or certificate has demonstrated satisfactory ability to assist pupils to meet or exceed state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605. Programs that meet this requirement for professional preparation shall include any of the following:

(A) Integrated programs of subject matter preparation and professional preparation pursuant to subdivision (a) of Section 44259.1.

(B) Postbaccalaureate programs of professional preparation, pursuant to subdivision (b) of Section 44259.1.

(C) Internship programs of professional preparation, pursuant to Section 44321, Article 7.5 (commencing with Section 44325), Article 11 (commencing with Section 44380), and Article 3 (commencing with Section 44450) of Chapter 3.

(4) Study of alternative methods of developing English language skills, including the study of reading as described in subparagraphs (A) and (B), among all pupils, including those for whom English is a second language, in accordance with the commission's standards of program quality and effectiveness. The study of reading shall meet the following requirements:

(A) Commencing January 1, 1997, satisfactory completion of comprehensive reading instruction that is research-based and includes all of the following:

(i) The study of organized, systematic, explicit skills including phonemic awareness, direct, systematic, explicit phonics, and decoding skills.

(ii) A strong literature, language, and comprehension component with a balance of oral and written language.

(iii) Ongoing diagnostic techniques that inform teaching and assessment.

(iv) Early intervention techniques.

(v) Guided practice in a clinical setting.

(B) For the purposes of this section, "direct, systematic, explicit phonics" means phonemic awareness, spelling patterns, the direct instruction of

sound/symbol codes and practice in connected text and the relationship of direct, systematic, explicit phonics to the components set forth in clauses (i) to (v), inclusive.

A program for the multiple subjects credential also shall include the study of integrated methods of teaching language arts.

(5) Completion of a subject matter program that has been approved by the commission on the basis of standards of program quality and effectiveness pursuant to Article 6 (commencing with Section 44310) or passage of a subject matter examination pursuant to Article 5 (commencing with Section 44280). The commission shall ensure that subject matter standards and examinations are aligned with the state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605.

(6) Demonstration of a knowledge of the principles and provisions of the Constitution of the United States pursuant to Section 44335.

(7) Commencing January 1, 2000, demonstration, in accordance with the commission's standards of program quality and effectiveness, of basic competency in the use of computers in the classroom as determined by one of the following:

(A) Successful completion of a commission-approved program or course.

(B) Successful passage of an assessment that is developed, approved, and administered by the commission.

(c) The minimum requirements for the clear multiple or single subject teaching credential shall include all of the following requirements:

(1) Possession of a valid preliminary teaching credential, as prescribed in subdivision (b), possession of a valid equivalent credential or certificate, or completion of equivalent requirements as determined by the commission.

(2) Subject to the availability of funds in the annual Budget Act to provide statewide access to eligible beginning teachers, as defined in subdivision (d) of Section 44279.1 and except as provided in paragraph (3), completion of a program of beginning teacher induction, including one of the following:

(A) A program of beginning teacher support and assessment approved by the commission and the Superintendent pursuant to Section 44279.1, a provision of the Marian Bergeson Beginning Teacher Support and Assessment System.

(B) An alternative program of beginning teacher induction that is provided by one or more local educational agencies and has been approved by the commission and the Superintendent on the basis of initial review and periodic evaluations of the program in relation to appropriate standards of credential program quality and effectiveness that have been adopted by the commission, the Superintendent, and the state board pursuant to this subdivision. The standards for alternative programs shall encourage innovation and experimentation in the continuous preparation and induction of beginning teachers. Any alternative program of beginning teacher induction that has met state standards pursuant to this subdivision may apply for state funding pursuant to Sections 44279.1 and 44279.2.

(C) An alternative program of beginning teacher induction that is sponsored by a regionally accredited college or university, in cooperation with one or more local school districts, that addresses the individual professional needs of beginning teachers and meets the commission's standards of induction. The commission shall ensure that preparation and induction programs that qualify candidates for professional credentials extend and refine each beginning teacher's professional skills in relation to the California Standards for the Teaching Profession and the standards of pupil performance adopted pursuant to Section 60605.

(3) (A) If a candidate satisfies the requirements of subdivision (b), including completion of an accredited internship program of professional preparation, and if that internship program fulfills induction standards and is approved as set forth in this subdivision, the commission shall determine that the candidate has fulfilled the requirements of paragraph (2).

(B) If an approved induction program is verified as unavailable to a beginning teacher, or if the beginning teacher is required under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) to complete subject matter coursework to be qualified for a teaching assignment, the commission shall accept completion of an approved clear credential program after completion of a baccalaureate degree at a regionally accredited institution as fulfilling the requirements of paragraph (2). The commission shall adopt regulations to implement this subparagraph.

(4) Experience that includes the application of knowledge and skills previously acquired in a preliminary credential program, in accordance with commission standards, that addresses the following:

(A) Health education, including study of nutrition, cardiopulmonary resuscitation, and the physiological and sociological effects of abuse of alcohol, narcotics, and drugs and the use of tobacco. Training in cardiopulmonary resuscitation shall also meet the standards established by the American Heart Association or the American Red Cross.

(B) Field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs.

(C) Advanced computer-based technology, including the uses of technology in educational settings.

(d) The commission shall develop and implement standards of program quality and effectiveness that provide for the areas of application listed in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (c), starting in professional preparation and continuing through induction.

(e) A credential that was issued prior to January 1, 1993, shall remain in force as long as it is valid under the laws and regulations that were in effect on the date it was issued. The commission may not, by regulation, invalidate an otherwise valid credential, unless it issues to the holder of the credential, in substitution, a new credential authorized by another provision in this chapter that is no more restrictive than the credential for which it was substituted with respect to the kind of service authorized and the grades, classes, or types of schools in which it authorizes service.

(f) A credential program that is approved by the commission may not deny an individual access to that program solely on the grounds that the individual obtained a teaching credential through completion of an internship program when that internship program has been accredited by the commission.

(g) Notwithstanding this section, persons who were performing teaching services as of January 1, 1999, pursuant to the language of this section that was in effect prior to that date, may continue to perform those services without complying with any requirements that may be added by the amendments adding this subdivision.

(h) Subparagraphs (A) and (B) of paragraph (4) of subdivision (b) do not apply to any person who, as of January 1, 1997, holds a multiple or single subject teaching credential, or to any person enrolled in a program of professional preparation for a multiple or single subject teaching credential as of January 1, 1997, who subsequently completes that program. It is the intent of the Legislature that the requirements of subparagraphs (A) and (B) of paragraph (4) of subdivision (b) be applied only to persons who enter a program of professional preparation on or after January 1, 1997.

SEC. 5. Section 44263 of the Education Code is amended to read:

44263. A teacher licensed pursuant to the provisions of this article may be assigned, with his or her consent, to teach a single subject class in which he or she has 18 semester hours of coursework or nine semester hours of upper division or graduate coursework or a multiple subject class if he or she holds at least 60 semester hours equally distributed among the 10 areas of a diversified major set forth in Section 44314. A three-semester-unit variance in any of the required 10 areas may be allowed. The governing board of the school district by resolution shall provide specific authorization for the assignment. The authorization of the governing board shall remain valid for one year and may be renewed annually.

SEC. 6. Section 44332.5 of the Education Code is amended to read:

44332.5. (a) A school district that may issue warrants pursuant to Section 42647 may, at its discretion, provide for the registration of a valid certification or other document authorizing the holder to serve in a position requiring certification qualifications as an employee of the school district.

(b) During any period when summary criminal history information is not available from the Federal Bureau of Investigation, an applicant for an initial credential, certificate, or permit shall not be employed in a position requiring certification qualifications until he or she has met the minimum requirements for a temporary certificate of clearance. A temporary certificate of clearance or a credential, certificate, or permit authorizing service in the public schools shall be issued when the applicant has:

(1) Made full disclosure of all facts necessary to establish his or her true identity.

(2) Made a statement under penalty of perjury that he or she has not been convicted of a crime which would constitute grounds for the denial of the credential, permit, or certificate applied for.

An applicant shall not be required to disclose, and the Committee of Credentials shall not inquire into or consider, any acts or omissions not related to the applicant's fitness to teach or to perform other duties for which he or she is certificated, or that is related to his or her competence to perform the duties authorized by his or her credential.

(3) Paid to the Commission on Teacher Credentialing the amount of twelve dollars (\$12) or the fees or costs which have been or will be assessed by the Federal Bureau of Investigation for the issuance of its summary criminal history of the applicant when this information is once again made available to the commission. The fees authorized by this paragraph shall be applicable to all credentials, permits, and certificates which were applied for or issued after October 1, 1981.

(c) Upon receipt of a statement from the Federal Bureau of Investigation that it has no summary criminal history information on the applicant, or upon receipt of the summary criminal history information and clearance by the Committee of Credentials, a temporary certificate of clearance shall be converted to a regular certificate of clearance.

SEC. 7. Section 44421 of the Education Code is amended to read:

44421. The Commission on Teacher Credentialing shall privately admonish, publicly reprove, revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving in the public school system, or for any cause that would have warranted the denial of an application for a credential or the renewal thereof, or for evident unfitness for service.

SEC. 8. Section 44422 of the Education Code is amended to read:

44422. Whenever the holder of a credential issued by the State Board of Education or the Commission on Teacher Credentialing is charged with immoral or unprofessional conduct or evident unfitness for service or persistent defiance of, and refusal to obey, the laws regulating the duties of his or her position, the commission in its discretion after notifying the person charged of its intention to do so, may require the county board of education of the county in which he or she is serving or has last served to give notice of, and conduct, a hearing of the charges in the manner prescribed by law for the hearing of charges for private admonition, or for the revocation or suspension of a certificate by a county board of education.

The county board of education, after the hearing, shall report to the commission its findings, and a summary of the evidence, and shall make a definite recommendation concerning the revocation or suspension of the credential.

Upon receipt of a copy of the findings, summary of evidence, and recommendation, the commission may privately admonish the holder of the credential, or suspend or revoke the credential for the causes stated, or order the charges dismissed.

SEC. 9. Section 44426 of the Education Code is amended to read:

44426. Whenever the holder of a credential issued by the State Board of Education or the Commission on Teacher Credentialing has been determined to be a sexual psychopath under the provisions of Article 1

(commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state, the commission shall forthwith suspend the credential. If the determination is reversed and the holder is determined not be a sexual psychopath in a new proceeding or the proceeding to determine whether he or she is a sexual psychopath is dismissed, the commission shall forthwith terminate the suspension of the credential. When the determination becomes final, the commission shall forthwith revoke the credential.

SEC. 10. Section 44830.7 of the Education Code is amended to read:

44830.7. Every contract for employment for a position requiring certification qualifications between a school district governing board and a person who possesses certification qualifications from another state shall provide that employment shall terminate upon notice by the Commission on Teacher Credentialing to the district and the employee, that the employee does not have the necessary qualifications for the credential required by law for the position for which the service was rendered.

SEC. 11. Section 44853 of the Education Code is amended to read:

44853. The governing board of any school district, subject to the rules and regulations prescribed by the state board, may enter into an agreement with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, or other district within the state, for the exchange and employment of regularly credentialed employees and employees of public schools of any foreign country, state, territory, or possession, or other district within this state. Any certificated person employed as provided in this section shall be known as an “exchange certificated employee.” No exchange shall be made without the consent of the employee to be exchanged.

Due consideration shall be given to the general qualifications and professional status of the exchange employee as compared to the general qualifications and professional status of the employee for whom exchanged. However, it shall not be a requirement that an exchange certificated employee be a teacher of the same subject or grade, or both, as the employee for whom exchanged. If the service authorized is other than teaching, it shall not be a requirement that the service be at the same grade level or that the service be exactly the same as the employee for whom exchanged.

A person shall not be employed as an exchange employee by a school district in the state unless he or she holds the necessary valid credential or credentials issued by the Commission on Teacher Credentialing authorizing the person to serve in a position requiring certification qualifications in the school district proposing to employ the person. The commission may establish minimum standards for the credentials for exchange certificated employees, provided that no exchange certificated employee shall be required to pay a fee or other charge for the issuance of any necessary valid credential or credentials authorizing him or her to serve in a position requiring certification qualifications in any school district in this state.

An exchange agreement may be made for a period not to exceed three years.

At the end of the assignment period, the exchange, with the consent of all parties, may be made complete and permanent.

SEC. 12. Section 44856 of the Education Code is amended to read:

44856. The governing board of a school district, for the purposes of providing bilingual instruction, foreign language instruction, or cultural enrichment, in the schools of the district, subject to the rules and regulations of the state board, may conclude arrangements with the proper authorities of a foreign country, or of a state, territory, or possession of the United States, for the hiring of bilingual teachers employed in public or private schools of a foreign country, state, territory, or possession. To be eligible for employment, the teacher must speak English fluently. Any persons employed pursuant to this section shall be known as a “sojourn certificated employee.”

A person shall not be hired as a sojourn certificate employee by a school district unless he or she holds the necessary valid credential or credentials issued by the Commission on Teacher Credentialing authorizing the person to serve in a position requiring certification qualifications in the school district proposing to employ him or her. The person may be employed for a period not to exceed two years, except that thereafter the period of employment may be extended from year to year for a total period of not more than five years upon verification by the employing district that termination of the employment would adversely affect an existing bilingual or foreign language program or program of cultural enrichment, and that attempts to secure the employment of a certificated California teacher qualified to fill the position have been unsuccessful. The commission shall establish minimum standards for the credentials for sojourn certificated employees.

SEC. 13. Section 44917 of the Education Code is amended to read:

44917. Except as provided in Sections 44888 and 44920, governing boards of school districts shall classify as substitute employees those persons employed in positions requiring certification qualifications, to fill positions of regularly employed persons absent from service.

After September 1 of any school year, the governing board of any school district may employ, for the remainder of the school year, in substitute status any otherwise qualified person who consents to be employed in a position for which no regular employee is available, including persons retired for service under the State Teachers’ Retirement System. Inability to acquire the services of a qualified regular employee shall be demonstrated to the satisfaction of the Commission on Teacher Credentialing.

Any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a position requiring certification qualifications, be classified by the governing board as a probationary employee and the previous year’s employment as a temporary employee shall be deemed one year’s employment as a probationary employee for purposes of acquiring permanent status.

SEC. 14. Section 44980 of the Education Code is amended to read:

44980. Any certificated employee of any school district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts a position requiring certification qualifications in a school district or office of another county superintendent of schools; or, any person employed by the state department in a position requiring certification qualifications or an employee of the office of the Chancellor of the California Community Colleges who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; or, any certificated employee of the Commission on Teacher Credentialing who accepts a position requiring certification qualifications in any school district or office of any county superintendent of schools; shall have transferred with him or her to the second position his or her accumulated leave of absence for illness or injury. The amount of leave to be transferred shall be determined in the same manner as provided in Section 44979. All other provisions of Section 44979 shall also apply to the employees and employers described in this section.

SEC. 15. Section 44987.3 of the Education Code is amended to read:

44987.3. (a) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of any compensation for the purpose of enabling the employee to serve on any of the following boards, commissions, committees, or groups, so long as the requirements of subdivision (b) are satisfied:

(1) Advisory Commission on Special Education, as provided for by Section 33590.

(2) Advisory committee for child care and development services, as provided in Section 8286.

(3) Curriculum Development and Supplemental Materials Commission, as provided for by Section 33530.

(4) Educational Innovation and Planning Commission, as provided for by Section 33502.

(5) Educational Management and Evaluation Commission, as provided for by Section 33550.

(6) Any other group, commission, or board authorized by statute; or commission or board, any of whose members are appointed by the Governor or the state board; whose purposes and activities are to further public education, exclusive of the Commission on Teacher Credentialing.

(b) A leave of absence shall not be granted unless all the following requirements are satisfied:

(1) Service is performed in the State of California.

(2) The board, commission, committee, or group, in writing, informs the employee's district of the service.

(3) The board, commission, committee, or group agrees, prior to service, to reimburse the school district pursuant to subdivision (d).

(c) The leave of absence shall be limited to 20 schooldays per school year.

(d) Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the board, commission, committee, or group that the employee serves for the compensation paid to the employee's substitute and for actual administrative costs related to the leave of absence granted to the employee under this section, upon written request for reimbursement by the school district. Reimbursement by the board, commission, committee, or group shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee and of payment of compensation to the employee's substitute.

(e) The leave of absence without loss of compensation provided for by this section is in addition to the release time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code and the leave of absence granted employees by Section 44987.

(f) As used in this section, "school district" also means a county superintendent of schools.

SEC. 16. Section 52127 of the Education Code is amended to read:

52127. (a) As a condition to receiving an apportionment pursuant to Section 52126, school districts shall have a staff development program that requires a certificated teacher who will provide direct instructional services for a class participating in the school district's class size reduction program to receive the appropriate training necessary to maximize the educational advantages of class size reduction. This training shall include, but not be limited to, methods for providing each of the following:

(1) Individualized instruction.

(2) Effective teaching, including classroom management, in smaller classes.

(3) Identifying and responding to pupil needs.

(4) Opportunities to build on the individual strengths of pupils.

(b) School districts may use funds currently received for staff development or funds received under this chapter to meet the requirements of this section.

SEC. 17. Section 52163 of the Education Code is amended to read:

52163. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) "Basic bilingual education" is a system of instruction that builds upon the language skills of the pupil and that consists of, but is not limited to, all of the following:

(1) A structured English language development component with daily instruction leading to the acquisition of English language proficiency, including English reading and writing skills.

(2) A structured primary language component with daily basic skills instruction in the primary language for the purpose of sustaining achievement in basic subject areas until the transfer to English is made.

As the pupil develops English language skills, the amount of instruction offered through English shall increase.

(b) “Bilingual-bicultural education” is a system of instruction that uses two languages, one of which is English, as a means of instruction. It is a means of instruction that builds upon and expands the existing language skills of each participating pupil, that will enable the pupil to achieve competency in both languages.

This instruction shall include all of the following:

- (1) Daily instruction in English language development that shall include:
 - (A) Listening and speaking skills.
 - (B) Reading and writing skills; formal instruction in reading and writing of English shall be introduced when appropriate criteria are met.
- (2) Language development in the pupil’s primary language, including oral and literacy skills.
- (3) Reading in the pupil’s primary language.
- (4) Selected subjects taught in the pupil’s primary language.
- (5) Development of an understanding of the history and culture of California and the United States, as well as an understanding of customs and values of the cultures associated with the languages being taught.

(c) (1) “Experimental bilingual programs” are:

(A) Innovative programs that are consistent with the provisions of this article, the requirements for bilingual teaching personnel pursuant to Section 52165, and the requirements for English language and primary language development pursuant to this section. Innovative programs may include new management approaches, greater emphasis on team teaching, or other appropriate improvements that expand the learning opportunities of pupils of limited English proficiency. Unless waivers of code sections are required, project approval of the state board is not required. A description of each innovative program shall be included with the consolidated application for program funding and an annual evaluation of the programs shall be included in the multiple-funded program evaluation required pursuant to Section 33403.

(B) Planned variation programs for the purpose of comparing and improving language development programs for pupils of limited English proficiency. A primary focus shall be on appropriate instruction for pupils of limited English proficiency whose English skills are superior to their skills in their primary language.

A focus may also be placed upon situations in which the number of pupils who, in accordance with Section 52165, would be required to receive instruction pursuant to subdivision (a) or (b) of Section 52163, is substantially smaller than the census indicated for the previous year, in which case all pupils of limited English proficiency shall receive instruction through individual learning programs during the preparation of the district’s proposal and the consideration of the proposal by the state board. The programs shall be authorized by the state board in up to 300 classrooms in 1982–83 and up to 700 classrooms in 1983–84 and each school year thereafter in districts that are representative of the state both geographically and by size. Not more than 30 classrooms in 1982–83 and 50 classrooms in 1983–84, that may or may not be in another school, shall be approved in

any one district. The programs shall not result in segregation. For districts proposing a planned variation program, the staffing requirements of Section 52165 may be partially or totally waived by the state board provided that the district has an inadequate number of certified bilingual teachers, that certified bilingual teachers are not replaced, that present level of effort is not reduced, and that the proposed language development program is appropriate. For each participating classroom there shall be another similar classroom in the district that has fully implemented and is in compliance with the other provisions of this article.

(2) Proposals for planned variation programs shall include, but need not be limited to:

(A) A clear statement of the purposes, goals, and objectives for planned variation programs and projected outcomes.

(B) A delineated management, staffing, and instructional plan.

(C) Pupil identification, diagnosis, and assessment procedures.

(D) Evidence of qualified bilingual and other instructional staff with demonstrated competence in language development, bicultural or multicultural knowledge of participating pupils, and instructional methodologies.

(E) Documented parent and community participation and support.

(F) Use of state and federal funding, where applicable.

(G) Evaluation component that controls for instructional treatments, instructional engaged time, staffing, pupil language characteristics, achievement, attendance, and related data.

(H) For purposes of this subdivision, if formal action upon a proposal for a planned variation program is not taken by the state board on or before the second regular meeting of the state board following the receipt of a complete and documented proposal, the proposal shall be deemed approved for the remainder of the school year.

Proposals that meet the requirements of this subdivision shall be approved by the state board in accordance with standards established in subdivision (b) of Section 52820.

Proposals may be approved annually for a second, third, or fourth year based upon a demonstration of compliance with planned variation program requirements.

(3) The department shall include in its annual report to the Legislature submitted pursuant to Sections 33405 and 52171.6 the number and nature of experimental bilingual and planned variation programs and progress of participating pupils.

(4) Nothing contained in this subdivision shall be construed to permit the operation of experimental bilingual and planned variation programs contrary to the purposes or intent of this article and other state or federal statutes and regulations promulgated for and on behalf of pupils of limited English proficiency. The primary goal of all programs shall be to teach the pupil English.

(d) "Secondary level language development program" is a program in grades 7 to 12 that provides a prescriptive English language program that

systematically develops a pupil's listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English. The prescriptive English language program shall be based on the diagnosis of a pupil's language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day or its equivalent for the purpose of providing pupils with minimum English language competencies pursuant to subdivision (e). The primary goal of the programs shall be to teach pupils the English language.

In addition to the prescriptive English language program required by this subdivision, a secondary level language development program shall provide primary language instructional support to sustain academic achievement in nonelective content subject areas required for high school graduation consistent with current law.

Instruction in a secondary level language development program shall be provided either by a language development specialist, or by a certified bilingual-crosscultural teacher, who has received the recommendation of the local superintendent of schools verifying in writing that the teacher is competent and qualified to teach an English-as-a-second-language component, as measured by the district's personnel evaluation system.

School districts offering an instructional program pursuant to this subdivision shall not be required to provide a secondary level individual learning program, as defined in subdivision (e), but shall be required to maintain records documenting all parental notices and of the continuing evaluation of pupil needs and services.

A school district may make a secondary level language development program available to pupils enrolled in grade 6 whenever that grade is maintained by the district in a middle school comprised of any of grades 6, 7, 8, or 9.

(e) "Secondary level individual learning program" is an individualized systematic program of instruction that meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.) and federal regulations promulgated pursuant to those court decisions and federal statutes. The primary goal of the programs shall be to teach the pupil English.

(f) "Elementary level individual learning program" is any program of instruction for a pupil of limited English proficiency in which any one of the three program options described in subdivision (a), (b), or (c) is individualized to meet the needs of the pupil of limited English proficiency and is offered in a manner consistent with the requirements of this article. Instruction shall be offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.), and

federal regulations promulgated pursuant to those court decisions and federal statutes. The primary goal of the programs shall be to teach the pupil English.

(g) “Primary language” is a language other than English that is the language the pupil first learned or the language that is spoken in the pupil’s home.

(h) “Bilingual-crosscultural teacher” means a person who (1) holds a valid, regular California teaching credential and (2) holds either a bilingual-crosscultural certificate of proficiency or other credential in bilingual education authorized by the Commission on Teacher Credentialing or a bilingual-crosscultural specialist credential. The person shall be fluent in the primary language and familiar with the cultural heritage of limited-English-proficiency pupils in the bilingual classes he or she conducts. The person shall have a professional demonstrated working knowledge of the methodologies that are necessary to effectively educate those pupils.

(i) “Bilingual-crosscultural teacher aide” means an aide fluent in both English and the primary language of the pupil or pupils of limited English proficiency in a bilingual-bicultural program. The aide shall be familiar with the cultural heritage of pupils of limited English proficiency in the bilingual classes to which he or she is assigned.

(j) “State board” means the State Board of Education.

(k) “Superintendent” means the Superintendent of Public Instruction.

(l) “Basic skills” means language arts, including, but not limited to, reading and writing, and mathematics.

(m) “Pupils of limited English proficiency” are pupils who do not have the clearly developed English language skills of comprehension, speaking, reading, and writing necessary to receive instruction only in English at a level substantially equivalent to pupils of the same age or grade whose primary language is English. The determination of which pupils are pupils of limited English proficiency shall be made in accordance with the procedures specified in Sections 52164 and 52164.1. Pupils who have no proficiency in their primary language are not included within this definition.

(n) “Pupils of fluent English proficiency” are pupils whose English proficiency is comparable to that of the majority of pupils, of the same age or grade, whose primary language is English.

(o) “Department” means the State Department of Education.

SEC. 18. Section 52165 of the Education Code is amended to read:

52165. Each pupil of limited English proficiency enrolled in the California public school system in kindergarten and grades 1 to 12, inclusive, shall receive instruction in a language understandable to the pupil that recognizes the pupil’s primary language and teaches the pupil English.

(a) In kindergarten and grades 1 to 6, inclusive, the following shall apply:

(1) If the language census indicates that any school of a school district has 10 or more pupils of limited English proficiency with the same primary language in the same grade level or 10 or more pupils of limited English proficiency with the same primary language, in the same age group, and in a multigrade or ungraded instructional environment, the school district shall offer instruction pursuant to subdivision (a), (b), or (c) of Section 52163 for

those pupils at the school. If there are pupils of limited English proficiency with different primary languages who do not otherwise satisfy the program requirements of subdivision (a), (b), or (c) of Section 52163 or of this subdivision, a language development specialist defined in subdivision (b) may be used.

(2) To the extent state or federal categorical funds are available, the services, as described in this paragraph, are required for pupils of limited English proficiency in concentrations of fewer than 10 per grade level. If there are fewer than 10 pupils of limited English proficiency in the same grade, but at least 20 pupils of limited English proficiency in the school with the same primary language, the school district shall provide at least one certified bilingual-crosscultural teacher or teachers on waiver as defined in Section 52178 or 52178.5 and an individualized instruction program as defined in subdivision (f) of Section 52163 for those pupils at the school. If the number of pupils of limited English proficiency in the school exceeds 45, the district shall provide two of those teachers. These teachers may be used as resource teachers or team teachers or to provide any other services to pupils of limited English proficiency as the district deems appropriate. These teachers shall be different teachers than those required pursuant to paragraph (1).

(b) The Legislature recognizes that in the past equal educational opportunities have not been fully available to secondary pupils of limited English proficiency. It is the intent of the Legislature to encourage school districts to offer a language learning program pursuant to subdivision (d) of Section 52163. Certified bilingual-crosscultural teachers or, if those teachers are not available, language development specialists assisted by a bilingual aide shall be qualified to provide instruction for those programs. Language development specialists shall be formally trained and competent in the field of English language learning, including second language acquisition and development, structure of modern English, and basic principles of linguistics, and shall meet the culture and methodology competencies established by subdivisions (b) and (c) of Section 44253.5. The Commission on Teacher Credentialing shall provide for the assessment of language competencies specified in this section and shall modify existing culture and methodology competency for language development specialist to ensure that they meet the crosscultural and instructional methodologies for pupils being served by those teachers. A teacher of English to speakers of other languages certificate from a commission-approved teacher training institution of higher education that meets the criteria established by the commission pursuant to Section 44253.5 shall be accepted instead of the methodology requirement.

(c) In kindergarten and grades 1 to 12, inclusive, pupils of limited English proficiency who are not enrolled in a program described in subdivision (a), (b), (c), or (d) of Section 52163, shall be individually evaluated and shall receive educational services defined in subdivision (e) or (f), as appropriate, of Section 52163. These services shall be provided in consultation with the pupil and the parent, parents, or guardian of the pupil.

(d) As a part of its consolidated application for categorical program funds, each district receiving those funds shall include a specific plan indicating the ways in which the individual learning plans will meet the needs of pupils of limited English proficiency. The plan shall describe all of the following:

- (1) Procedures used in making the individual evaluation.
- (2) The pupils' levels of English and primary language proficiency and levels of educational performance.
- (3) Instructional objectives and scope of educational services to be provided.
- (4) Periodic evaluation procedures, using objective criteria, to determine whether the instructional objectives are being met.